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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|---------------------------|---------------------|------------------|
| 10/663,417      | 09/16/2003  | Michael Iwatschenko-Borho | TEC03-04(TEG)       | 2715             |

7590 10/13/2005  
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| EXAMINER |
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GAGLIARDI, ALBERT J

| ART UNIT | PAPER NUMBER |
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2878

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,417

Applicant(s)

IWATSCHENKO-BORHO ET AL.

Examiner

Albert J. Gagliardi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4, 7-18, 20, 23, 25-29 and 36 drawn to methods or apparatus for detecting a radiation source from multiple ways of traffic including at least: plurality of detector assemblies, and a plurality of controllers coupled to detector assemblies and associated with a respective traffic way, classified in class 250, subclass 359.1.
  - II. Claim 31, drawn to a methods or apparatus for detecting a radiation source from multiple ways of traffic including at least: a step or means for performing natural background rejection processing, classified in class 250, subclass 369.
  - III. Claims 5-6, 19, 21-22, 24, 30, 32-35, drawn to methods or apparatus for detecting a radiation source from multiple ways of traffic including at least: a plurality of detector assemblies, and a plurality of controllers coupled to detector assemblies and associated with a respective traffic way; and a step or means for performing natural background rejection processing, classified in at least class 250, subclasses 359.1 and 369.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as for performing background rejection of radiation detectors regardless of whether or not the system includes

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multiple controllers configured to multiple detectors while invention I has separate utility for efficiently monitoring discrete areas with a reduced number of separate detector assemblies. See MPEP § 806.05(d).

Inventions III and inventions I and II are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP, § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claims 1 and 31 are evidence claims that provide evidence that the combination does not require the particulars of subcombinations for patentability. The subcombinations have separate utility as noted above.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Note: The examiner notes that a limitation of an unshielded detector is frequently associated with the limitation relating to natural background rejection, however at this preliminary stage of examination, the limitations do not appear to be necessarily related to each other, and therefore, are not seen as inherently belonging to the same invention. The examiner also notes that some of the claims (claim 5, for example) include limitations of distinguishing between artificial and non-artificial radiation, which at this preliminary stage of examination, seems to relate to the limitation relating to background rejection. Applicant should be aware that

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as prosecution progresses, these views may change and some of the claims may be considered as belonging to different inventions than identified above.

4. No telephone call was made to request an oral election to the above restriction because of the complexity of the restriction (i.e., multiple independent claims including multiple sets of dependent claims directed to combination inventions, and lack of clarity regarding the precise meaning of some of the limitations).

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Conclusion***


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert J. Gagliardi whose telephone number is (571) 272-2436.

The examiner can normally be reached on Monday thru Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Albert J. Gagliardi  
Primary Examiner  
Art Unit 2878

AJG